

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S	)	
REQUEST FOR CONFIDENTIAL TREATMENT	)	
OF INFORMATION FILED IN SUPPORT OF ITS	)	CASE NO. 97-159
CONTRACT FOR MINDSPRING ENTERPRISES,	)	
INC.	)	

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed March 28, 1997, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost information filed in support of the contract with MindSpring Enterprises, Inc. ("MindSpring") on the grounds that disclosure of the information is likely to cause BellSouth competitive injury and it appearing to this Commission as follows:

BellSouth has entered into a Volume and Term Agreement with MindSpring under the terms of which BellSouth has agreed to provide certain services throughout the nine state BellSouth region at a discount rate. The services to be provided are MegaLink® Channel Service, MegLink® ISDN Service, Network Access Registers, and Hunting. In support of the agreement, BellSouth has submitted cost information which it seeks to protect as confidential. The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those employees who have a business need to know and act upon the information. BellSouth seeks to preserve and protect the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Network Access Registers and Hunting are primarily local exchange services. BellSouth's competitors for local service include alternate access providers, resellers and interexchange carriers. MegaLink® Channel Service is a private line service. BellSouth's competitors for private line networks are interexchange carriers, competitive access providers, and providers of microwave service, digital radio and fiber networks. MegaLink® ISDN Service is an alternative to other local exchange service offerings, private line/data services and dedicated private line networks. Disclosure of the information would enable BellSouth's competitors for these services to determine BellSouth's cost and contribution from the service. This information could be used by BellSouth's competitors to market their competitive services to the detriment of BellSouth. Therefore, the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost information filed in support of the Volume and Term Agreement with MindSpring, which BellSouth has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 6th day of May, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt  
Chairman

Ed J. Helton  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director